

REMARKS

Applicant first and respectfully notes that claims 1-17 of the Preliminary Amendment filed October 21, 2005 were the claims of record to have been Examiner in this Application. These 17 claims are reflected in the International Preliminary Report on Patentability, which was issued by the World Intellectual Property Organization regarding the PCT application (a detailed explanation of the Preliminary Amendment having been submitted with Applicant's RESPONSE TO NOTICE TO FILE MISSING REQUIREMENTS filed August 14, 2006). Accordingly, Applicant respectfully references the 17 claims of the Preliminary Amendment in the above Claim Listing and in the below Remarks.

Claims 1-17 were pending in this Application as of the Office Action of March 19, 2010. Claims 16 and 17 are respectfully cancelled with this Response. The Examiner's rejections will now be addressed in turn.

Rejections under 35 U.S.C. 112, second paragraph

Claims 17 and 18 are rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite. In Response, Applicant respectfully cancels claims 16 and 17 as shown above (claim 18 was not pending).

Rejections under 35 U.S.C. 102(b)

Claims 1, 2, and 4-14 (claim 17 is cancelled and claim 18 was not pending) are rejected under 35 U.S.C. §102(b) as being allegedly anticipated by DE19728598 to Elsner (hereinafter referred to as "Elsner"). Applicant respectfully traverses.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant claim 1 recites *inter alia*,

“a plurality of masses, at least one of said masses comprising a light processing module;

at least one force producing element coupled with at least one of said masses, said at least one force producing element applying at least one force to said at least one masses.”

Elsner fails to teach or suggest a plurality of masses included with an oscillator and coupled with force producing elements in a manner that effects oscillation waveform. On the contrary, the actor elements 8 and 9 of Elsner, which are alleged in the Examiner’s rejection to be *both mass and force producing elements*, are merely capacitive elements responsible for producing force. These elements 8 and 9 have no mass property whatsoever, and cannot function as both a mass and a force element coupled thereto, as required by Applicant’s claims.

Furthermore, and with specific and respectful reference to claim 2, Elsner fails to describe mirror oscillation according to geometric waveform. On the contrary, the disclosure at column 3 lines 5-20 of Elsner, which is cited by the Examiner with regards to Claim 2, does not teach anything suggesting waveform at all (sinusoidal or non-sinusoidal). Instead, this passage of Elsner merely mentions mirror oscillation. In fact, Applicant respectfully points out that Elsner is directed to Lissajous trajectory, which is different than the geometric waveform recited in Applicant’s claims.

For at least the above reasons, Applicant respectfully asserts that Elsner neither teaches nor suggests every element of Applicant’s claim 1, or claims 2 and 4-14 that depend therefore. Accordingly, Elsner does not anticipate Applicant’s claims 1, 2 and 4-14.

Rejections under 35 U.S.C. 103(a)

Claims 3, 15, and 16 are rejected under 35 U.S.C. §103(a) as being allegedly obvious over Elsner in various view of United States Patent No. 3,727,183 to LeMay (hereinafter referred to as “LeMay”) and United States Patent No. 6,704,475 to Jin (hereinafter referred to as “Jin”). Though the claims 15 and 16 rejected by the Examiner do not include subject matter equivalent to the claims 15 and 16 listed above, Applicant still and respectfully traversal of this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 3, 15, and 16 depend from claim 1. Accordingly, for at least the reasons set forth in the 102 section of the Remarks above, Applicant respectfully asserts that Elsner does not teach every element of Applicant’s claims 3, 15, and 16. In addition, since neither LeMay nor Jin remedy the deficiencies of Elsner, Applicant further and respectfully asserts that neither the proposed combination of Elsner and LeMay nor the proposed combination of Elsner and Jin teach every element of Applicant’s claims. Therefore, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 3, 15, and 16 with respect to the proposed combination of Elsner and LeMay nor the proposed combination of Elsner and Jin.

Conclusion

All of the objections and rejections are herein overcome. In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. No new matter is added by way of the present Amendments and Remarks, as support is found throughout the original filed specification, claims and drawings. Prompt issuance of Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below listed phone number regarding this response or otherwise concerning the present application.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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